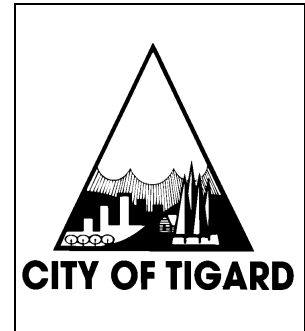

TIGARD CITY COUNCIL
AND BUDGET COMMITTEE
MEETING

September 18, 2001 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD



PUBLIC NOTICE:

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, Ext. 309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead-time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting date by calling:

503-639-4171, x309 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL AND BUDGET COMMITTEE MEETING
September 18, 2001

6:30 PM

1. WORKSHOP MEETING
 - 1.1 Call to Order - City Council
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non Agenda Items
2. DISCUSSION OF SIDEWALK MAINTENANCE ON MAJOR COLLECTORS
 - a. Staff Report: Public Works Staff
 - b. Council Discussion, Questions, Comments

❖ Recess Council Meeting

❖ Convene Budget Committee Meeting

7:00 PM

3. BUDGET COMMITTEE MEETING
 - a. Call to Order – Budget Committee Chair
 - b. Roll Call
 - 3.1 Update on Financial Issues
 - Cook Park Project/OECDD Loan
 - Photo Radar
 - Telecommunication Franchise (Qwest vs. The City of Portland)
 - 3.2 Supplemental Budget Hearing
 - Open Public Hearing
 - Hear Staff Report
 - Receive Public Testimony
 - Budget Committee Comments/Questions
 - Close Public Hearing
 - Budget Committee Consideration: Motion to approve the Supplemental Budget for the City of Tigard and refer it to the City Council for a Public Hearing on October 9, 2001.
 - 3.3 Status of Fiscal Year 2000-01 Year-End (preliminary results)

❖ Adjourn Budget Committee Meeting

❖ Reconvene Council Meeting

4. UPDATE ON INSURANCE PROGRAM
 - a. Staff Report: Administration Staff
 - b. Council Discussion, Questions, Comments
5. DISCUSSION OF STRATEGIES TO ADDRESS AFFORDABLE HOUSING
 - a. Staff Report: Community Development Staff
 - b. Council Discussion, Questions, Comments
6. COUNCIL LIAISON REPORTS
7. NON-AGENDA ITEMS
8. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(3), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
9. ADJOURNMENT

\\TIG333\USR\DEPTS\ADM\CATHY\CCA\010918.DOC

AGENDA ITEM # 2
FOR AGENDA OF 9/18/01

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Discussion of Sidewalk Maintenance on Major Collectors

PREPARED BY: Howard Gregory DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Discussion of sidewalk maintenance responsibility along major collectors.

STAFF RECOMMENDATION

Staff recommends that the Council direct staff to perform sidewalk maintenance adjacent to City properties.

INFORMATION SUMMARY

At the July 17, 2001 Council meeting staff was instructed to update the inventory of the sidewalks along the major collectors. Currently we have 121,133 feet or 22.94 miles of sidewalk along major collectors of which 62,450 feet are residential and 58,683 are commercial. There are 627 feet of residential and 1,418 feet of commercial sidewalks that require repairs. The City now has responsibility for 23,928 feet of sidewalk adjacent to City-owned property of which 440 feet need repair. If the City takes responsibility for the sidewalks along major collectors this will increase its responsibility to 145,061 feet or 27.47 miles.

If the City intends to assume responsibility for maintenance of sidewalks along major collectors, we recommend the following procedure.

- Only residential sidewalks
- Sidewalks would be accepted only after they are inspected and found to meet City standards.
- Property owners would be notified in writing of the necessary repairs. After repairs are complete, a re-inspection would be conducted prior to acceptance, to ensure that the sidewalk meets City standards.
- The Engineering Department will perform initial inspections for acceptance.
- Notification to the property owners would be made as their sidewalks are accepted. Notification would include the City's acceptance of maintenance responsibility for their sidewalk. Although the City would accept responsibility for structural maintenance, the property owner would remain responsible for keeping it clear of dirt, leaves, ice or any other hazard. The City Attorney's memorandum states that the City can assume some portion of the responsibility and liability. For example, it could assume responsibility and liability for repairs to damaged sidewalk without assuming responsibility or liability for keeping sidewalk free from obstruction, debris, ice, snow, etc.
- All sidewalks accepted for City Maintenance would be inspected every two years by Public Works staff. Any sidewalks found to be in need of repairs would be prioritized according to the severity of the repairs required.

OTHER ALTERNATIVES CONSIDERED

- Reject the staff recommendation
- Accept the maintenance responsibility for residential sidewalks along major collectors.
- Give staff further instructions as to how to proceed.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Community character and quality of life. Community aesthetics No. 1

Develop strategies to balance needs of new and infill development with the need to provide protection of defined aesthetic qualities valued by those who already live and work in Tigard.

ATTACHMENT LIST

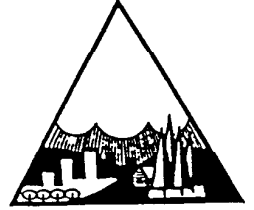
1. Memorandum from Loreen Mills on sidewalk liability review.
2. Copy of City of Tigard codes 7.40.070 and 15.12.010.
3. Memorandum from the City Attorney.
4. Draft Council minutes from 7/17/01

FISCAL NOTES

- If Council accepts staff recommendation there is no additional cost.
- If Council chooses to accept maintenance responsibility for sidewalks along major collectors that meet City standards, the estimated annual increase to the budget will be \$ 1,590.00 for 100 feet of repairs.

10 yards of concrete	\$790.00
Construction materials	\$500.00
Hand tools	\$300.00

MEMORANDUM



TO: Ed Wegner, Director of Public Works
FROM: Loreen Mills, Sr. Management Analyst
RE: Sidewalk Liability Review
DATE: October 2, 2000

As part of Council's policy discussion about right-of-way maintenance, it is important to consider the liability associated with responsibility for sidewalk maintenance. In reviewing current case law, I don't see anything that would require sidewalk liability being moved away from the property owner/manager. Before a policy decision is made in this matter, let me identify what exposures come with the decision.

In determining liability exposure and cost, one must first determine what sidewalks will be maintained. Ed Wegner has informed me that there are 85,000 lineal feet of sidewalks along collector streets and about another 45,000 lineal feet along the City's properties or rights-of-ways we need to maintain.

Based on 130,000 lineal feet of sidewalk in a proposed maintenance program, our current carrier, City Council Insurance Services (CCIS) will not charge additional premium. Higher premium costs could be charged in the future if the City were to see much litigation over the sidewalk maintenance program. CCIS has informed me that they are only aware of one jurisdiction that current does sidewalk maintenance, the City of Salem.

Concrete maintenance, managing vegetation around and over the sidewalk, proper drainage, and ice/snow removal as some areas of exposure in sidewalk maintenance programs. City of Salem is currently experiencing many liability claims from large, older trees along their sidewalks and finding the repair of a sidewalk without removing the tree difficult at best. Identifying the issues facing Tigard before starting a program would be necessary to reduce liability.

The usual type of risk in any maintenance program would be an increased exposure for workers comp claims if the City does the work in-house. Claims arising out of sidewalk ownership would be personal injury for trips and falls by pedestrians. Currently, Risk receives a few calls regarding sidewalk liability each month. The citizen is now referred to the adjacent property owner. If this were to change to a City program, Risk and Public Works staff would spend time in response.

In order to have discretionary immunity as a defense in trip and fall claims, I would recommend the following be addressed *before* accepting maintenance responsibilities for sidewalks:

- Inventory current condition of the sidewalks (this would include identifying hazards that may cause or result in accidents leading to injuries);
- Develop standards for preventive maintenance and emergency response for sidewalk repair;
- Provide for effective concrete repair (in-house or by contract);
- Establish the frequency and level of on-going inspection of sidewalks;
- Determine how and when the sidewalks will be brought up to meet ADA compliance standards (if they don't already); and
- Adopt a repair plan and budget authority to bring the sidewalks into compliance or up to standard prior to accepting the liability exposure.

In any maintenance program, the City may receive a claim of negligence if the following are not in place:

Inspection
Maintenance
Response
Documentation
Trained staff

I will attend the Council Work Session on 10/17/00 for this discussion.

c: Liz Newton

TIGARD MUNICIPAL CODE

ARTICLE III. NUISANCES AFFECTING PUBLIC SAFETY.

7.40.050 Noxious vegetation.

(a) The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard, a fire hazard or a traffic hazard, and it is vegetation within the meaning of subsection (b) of this section.

(b) The term "noxious vegetation" includes:

- (1) Weeds more than ten inches high;
- (2) Grass more than ten inches high and not within the exception stated in subsection (a) of this section;
- (3) Poison oak, poison ivy, or similar vegetation;
- (4) Dead trees, dead bushes, stumps and any other thing likely to cause fire;
- (5) Blackberry bushes that extend into a public thoroughfare or across a property line;
- (6) Vegetation that is a health hazard;
- (7) Vegetation that is a health hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

(c) No owner or responsible party shall allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting on the property. The owner or responsible party shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly or, in the case of weeds or other noxious vegetation, from maturing or from going to seed. (Ord. 86-20 §4(Exhibit C(5)(1)), 1986).

7.40.060 Trees.

(a) No owner or responsible party shall permit tree branches or bushes on the property to extend into a public street or public sidewalk in a manner which interferes with street or sidewalk traffic. It shall be the duty of an owner or responsible party to keep all tree branches or bushes on the premises which adjoin the public street or public sidewalk, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than ten feet above the street.

(b) No owner or responsible party shall allow to stand any dead or decaying tree that is in danger of falling or otherwise constitutes a hazard to the public or to persons or property on or near the property. (Ord. 86-20 §4(Exhibit C(5)(2)(a) and (b)), 1986).

7.40.070 Streets and sidewalks.

The owner or responsible party shall keep a public street and/or sidewalk abutting their property free from earth, rock and other debris and other objects that may obstruct or render the street or sidewalk unsafe for its intended use. (Ord. 86-20 §4(Exhibit C(5)(2)(c)), 1986).

7.40.080 Vehicles not to drop material on streets.

The owner or operator of any vehicle engaged in the transportation of excavation or construction materials shall be responsible for keeping the public streets and sidewalks free from such materials, including but not limited to, earth, rock and other debris that may obstruct or render the street or sidewalk unsafe for its intended use. (Ord. 86-20 §4(Exhibit C(5)(2)(d)), 1986).

7.40.090 Greenway maintenance.

(a) The owner or responsible party shall be responsible for the maintenance of the property, subject to an easement to the city or to the public for greenway purposes. Except as otherwise

TIGARD MUNICIPAL CODE

Chapter 15.12. SIDEWALKS

15.12.010 Maintenance and repair of public sidewalks.

15.12.010 Maintenance and repair of public sidewalks.

It is the duty of all persons owning lots or land which have public sidewalks abutting the same, to maintain and keep in repair the sidewalks and not permit them to become or remain in a dangerous or unsafe condition. "Maintenance" includes, but is not limited to, the removal of snow and ice. Any owner of a lot or land who neglects to promptly comply with the provisions of this section is fully liable to any person injured by such negligence. The city shall be exempt from all liability, including but not limited to common-law liability, that it might otherwise incur to an injured party as a result of the city's negligent failure to maintain and repair public sidewalks. (Ord. 91-12 §1, 1991: Ord. 85-44 §3, 1985).■

Attachment 3

**RAMIS
CREW
CORRIGAN &
BACHRACH, LLP**

Practicing as
Hibbard Caldwell Schultz
Ramis & Crew
in Oregon City

ATTORNEYS AT LAW

1727 N.W. Hoyt Street
Portland, Oregon 97209

(503) 222-4402
Fax: (503) 243-2944

MEMORANDUM

TO: John Roy, City of Tigard

FROM: Gary Firestone, City Attorney's Office

DATE: September 4, 2001

RE: Sidewalk Responsibility and Liability

BACKGROUND

TMC 15.12.010 currently makes the adjoining property owner responsible and liable for all aspects of sidewalk maintenance and repair. The City has been considering assuming responsibility and liability for at least some aspects of sidewalk maintenance and repair.

ISSUES

Could the City develop a scheme in which the City assumes responsibility and liability for repairs but leaves the adjoining property owner responsible and liable for keeping the sidewalk free of debris, snow, ice, etc.?

ANSWER

The City can assume partial responsibility and liability. It is possible to have the City responsible for repairs for damage and have the adjoining property owner responsible for keeping the sidewalk clean and free of obstruction and debris. If the City assumes responsibility for maintenance, it must also assume liability for improper maintenance. However, even if the City does assume responsibility and liability for repair, it would be entitled to discretionary immunity if the City makes a discretionary policy choice adopting an inspection and repair program and follows that program.

ANALYSIS

At common law, the governmental entity that was responsible for the right of way was responsible

Memorandum re: Sidewalk Responsibility and Liability

September 4, 2001

Page 2

and liable for damages caused as a result of a failure to properly maintain a sidewalk within the right of way. See *McQuillan*, 19 *Municipal Corporations* (3d ed) Chapter 54. However, courts have accepted that local governments may change the common law rule by adopting code that imposes responsibility and liability on adjoining property owners. *McQuillan*, Section 54.08; *Noonan v. City of Portland*, 161 Or 213, 88 P2d 808 (1939).¹ Virtually all local jurisdictions in Oregon impose responsibility and liability on the adjoining property owners.

Because the transfer of responsibility and liability from the city to the adjoining property owners was solely the result of City ordinance, the City retains the power to reassume any or all of the responsibility and liability for sidewalks in the right of way. The City has three basic choices:

1. It can keep the existing system, in which the adjoining property owner is responsible for all maintenance and repair of the sidewalk and keeping the sidewalk free from obstruction, debris, snow, ice, etc.
2. The City can assume all responsibility and liability.
3. The City can assume some portion of the responsibility and liability. For example, it could assume responsibility and liability for repairs to damaged sidewalk without assuming responsibility or liability for keeping sidewalk free from obstruction, debris, ice, snow, etc.

In choosing between the options, the City needs to be aware of three things. First, the City cannot assume responsibility without assuming liability.² Attempts to avoid all liability have been defeated by the courts, who have held that such attempts violate Article I Section 10 of the Oregon constitution, which guarantees a remedy for injuries. *Mattson v. Astoria*, 39 Or 577, 65 P 1066 (1901).

¹There is some possibility that under the Tort Claims Act, a City cannot avoid liability by transferring liability to adjoining property owners. See *Pritchard v. City of Portland*, 98 Or App 226, 778 P2d 985 (1989) *aff'd on other grounds* 310 Or 235, 796 P2d 1184 (1990). If the Court of Appeals position in the *Pritchard* case is eventually upheld by the Supreme Court, if a City attempts to avoid liability by transferring responsibility and liability to adjoining landowners, both the City and the adjoining landowners would be liable. However, we believe that the better rule is that the City cannot transfer liability from itself without also transferring responsibility, but if the City transfers both responsibility and liability, the transfer is effective.

²Under the Tort Claims Act, the City is responsible for its torts. If the City has the duty to repair, any breach of that duty is a tort. The City cannot have the responsibility without the liability.

Memorandum re: Sidewalk Responsibility and Liability

September 4, 2001

Page 3

Second, the responsibility and liability provided for in TMC 15.12.010 assumes no active wrongdoing by any party. If a third party damages or places obstructions on the sidewalk, that party is at least partially responsible for the cost of repair and liable for any damages to others. Even if the City assumes responsibility and liability for repairs to damaged sidewalks, if the adjoining property owner causes the damage, the adjoining property owner should be responsible for the repairs and liable for damages to third parties.

Third, if the City makes an informed policy decision to adopt a program for sidewalk inspection and repair, it can avoid liability by following the policy. While the Tort Claims Act has waived immunity for torts by governments, governments retain immunity for discretionary decisions. ORS 30.265(3)(c). Adopting a program of sidewalk inspection and repair is a discretionary decision for which the City is immune under ORS 30.265(3)(c). *Ramsey v. City of Salem*, 76 Or App 29, 707 P2d 1295 (1985). To be entitled to immunity, the decision must be made by a policy maker with discretion. The City can consider its budget in adopting or amending its program. While the City may have liability for failing to follow its program, *Tuser v. City of Eugene*, 115 Or App 464, 466, 838 P2d 1104 (1992), it would be immune if it follows its program, even if that program does not avoid all possible harm.

C:\munk\Tigard\sidewalkres\7fish.wpd

3. REVIEW RIGHT-OF-WAY AND SIDEWALK MAINTENANCE

Public Works Director Ed Wegner introduced this agenda item. Property Manager John Roy reviewed the history of the right-of-way maintenance program noting that maintenance had been addressed through a complaint-driven process over the years. A copy of the Staff Report is on file with the City Recorder.

Mr. Wegner noted that there has been success with notifying property owners of their responsibilities with regard to maintenance of areas along the right of way. Recently, after notice was received, property owners resolved maintenance issues for rights of way along Hall Boulevard and Sattler Street. Mr. Wegner said that staff was not opposed to providing maintenance along streets such as Durham Road and Sattler Street, but noted the need for consistency. He also said that, if the City maintains Durham Road right-of-way areas, this might trigger requests for maintenance for other streets.

The current staff proposal for a City right-of-way maintenance program covers areas that are adjacent to City properties or properties that are adjacent to steep slopes, ditches, and state and railroad rights of way. The Budget Committee did not approve the proposal for an enhanced right-of-way maintenance program. City Manager Bill Monahan advised that, if an enhanced program is decided upon by the City Council, then the City Council would need to determine how the program would be funded.

In response to an inquiry by Councilor Scheckla, Mr. Monahan noted that no agreement with Summerfield residents has been located with regard to maintenance responsibilities of rights of way.

Councilor Dirksen commented that the right-of-way maintenance situation should be reviewed, noting there is no long-term funding for an enhanced right of way program within the City. In the shorter term he noted the City Council needed to focus on what could be afforded at this time.

Mr. Paul Owen, Summerfield Liaison, addressed the City Council. (A copy of Mr. Owen's letter dated July 17, 2001, is on file with the City Recorder.) Mr. Owen noted disappointment with the staff's recommendation, which dealt only with right-of-way maintenance and not the liability concerns with regard to the sidewalks. He noted the high use of

the sidewalks because of the close proximity to the high school. Mr. Owen requested the City consider maintenance of right of way on fully improved collector streets.

There was discussion on the liability issue with regard to sidewalks. The liability responsibility rests with the landowner abutting the sidewalk.

Mr. Wegner referred to an earlier discussion with the City Council that included the proposal that if a sidewalk was brought up to standard, the City could accept the sidewalk and assume the liability and future repairs. This proposal was not pursued.

City Council discussion followed. Councilor Patton noted she was opposed to continuing the complaint-driven maintenance program used in the past, which was inconsistent, piecemeal, and inequitable. She also opposed maintaining Durham Road specifically citing the need for equitable treatment for other areas in similar circumstances. She said she would have liked to support a citywide enhanced right-of-way maintenance program, but the City does not have the money to do this now given other funding needs and scarce resources. She recommended staff continue an aggressive education campaign advising property owners of their responsibilities to maintain adjacent rights of way. At this time, she said the City should "go back to basics" and to be consistent, which will mean that those who have received maintenance before, will not continue to receive this service.

Councilor Scheckla noted that, in the past, exceptions have been made. He referred to SW North Dakota Street where traffic islands and diverters were constructed at the request of those who lived in that area.

Councilor Scheckla noted that he liked the compromise position suggested by Paul Owen, which was to have the City recognize that the sidewalks, curbs, and streets, were designed and built by the City of Tigard and the City would therefore be responsible for the maintenance, repair, and liability for said improvements. If the City agreed to the above, then Summerfield would agree to maintain the 15-foot planter strip as it is now without liability.

Councilor Dirksen noted that the maintenance of right of way is a luxury that the City could not afford at this time. He advised that he thinks the sidewalk issue is separate from the maintenance of the planting areas along the rights of way. He said he would be willing to consider the City taking over control of the sidewalks that meet City standards and to implement a citywide program for this. After discussion, it was clarified that the sidewalk

maintenance Councilor Dirksen was referring to was for those sidewalks along major collectors only.

Mayor Griffith noted that he, too, would have liked to have seen the enhanced right-of-way maintenance program implemented, but also agreed with the other Councilors that this was more than the City could afford. He concurred that maintenance of the sidewalks along major collectors, once brought up to standards, has some merit. He suggested that he would like to continue to review options about how an enhanced maintenance program could be implemented.

There was discussion on a maintenance fee that might represent an alternative for funding and implementation of an enhanced right-of-way program.

Councilor Patton advised she still had some concerns with providing service for only certain areas.

Mayor Griffith summarized the majority of Council direction with regard to the sidewalk issue which would be for the staff to review the cost of accepting the maintenance of sidewalks (once brought up to City standards) for major collectors for non-commercial (residential areas). He clarified he did not expect staff to prepare a complete inventory of sidewalks indicating those that need to be brought up to standard, but requested a "ballpark" figure about what it would cost the City to maintain sidewalks once they are accepted by the City. City Manager Monahan noted that it had been determined that insurance (liability) costs would be negligible. Homeowners would maintain responsibility to keep sidewalks clear of debris, ice, and snow.

In response to a question from Summerfield resident Paul Hunt whether the City would consider providing maintenance on rights of way (plant areas), Mayor Griffith advised that this would be an item he would like to discuss with Mr. Hunt and Mr. Monahan at an upcoming meeting scheduled for the three of them. Mr. Monahan noted that the City provides contract service to help the City of Durham to maintain its parks, but this is one government entity providing assistance to another government entity. There are restrictions (Associated Oregon Industries) with regard to governments providing services to the private sector.

I:\ADM\CATHY\CCM\EXCERPT 7-18-01 RIGHT OF WAY MAINTENANCE2.DOC

AGENDA ITEM # 3
FOR AGENDA OF September 18, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Joint meeting with the Budget Committee

PREPARED BY: Craig Prosser DEPT HEAD OK CITY MGR OK

ISSUE BEFORE THE COUNCIL

Informational meeting and approval of a Supplemental Budget for the City of Tigard.

STAFF RECOMMENDATION

No action required – see Information Summary

INFORMATION SUMMARY

This is the first quarterly meeting with the Budget Committee for FY 2001-02. The agenda for this meeting is attached to this summary. The agenda includes several informational items to bring the Committee up-to-date on several financial issues. The agenda also includes approval of a Supplemental Budget for the City of Tigard.

Under state law, Supplemental Budgets are required when a jurisdiction wishes to make changes of more than 15% to any one fund or if a jurisdiction needs to recognize and appropriate additional resources in a fund. By law, the jurisdiction must publish notice of the Budget Committee meeting, convene the Budget Committee, conduct a public hearing on the Supplemental Budget, and obtain the formal approval of the Supplemental Budget by the Committee. After those steps are completed, the Supplemental Budget is referred to the City Council for adoption and a second public hearing. (This process mirrors the annual budget adoption process.)

Public notice of the Budget Committee meeting was published on September 6, 2001. On September 18, it will be necessary to adjourn the City Council meeting immediately prior to beginning the Budget Committee meeting. The Budget Committee will then be formally convened. The Budget Committee will follow the attached agenda, open a public hearing on the Supplemental Budget and receive testimony (if any). Following the public hearing, the Committee will need to formally approve the Supplemental Budget by motion. Once the Budget Committee agenda is completed, the Budget Committee meeting will be closed and the City Council meeting will be reconvened. Final adoption of the Supplemental Budget by the City Council is scheduled for October 9.

A Supplemental Budget is required to recognize and appropriate the OECDD loan revenues for the Cook Park Project in the Parks SDC Fund and to adjust resources and appropriations in the Underground Utility Fund. A full explanation of these adjustments is included in the attached materials. These are the only two funds affected by this Supplemental Budget.

OTHER ALTERNATIVES CONSIDERED

None

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

1. September 6, 2001 letter from Craig Prosser, Finance Director, to the Budget Committee
2. Budget Committee Agenda
3. Supplemental Budget narrative explanation
4. Supplemental Budget financial summary (Attachment A to narrative explanation)

FISCAL NOTES

Parks SDC Fund -- \$2,230,000
Underground Utility Fund -- \$45,000

September 6, 2001

Jim Griffith
10915 SW Fairhaven Way
Tigard, OR 97223

Dear Mr. Griffith,

The next meeting of the Tigard Budget Committee is scheduled for Tuesday, September 18, 2001 at 7:00 p.m. in the City Council Chambers. This meeting will occur during a regularly scheduled City Council Study Session. Although the Budget Committee will not convene until 7:00 p.m., members may want to come at 6:30. At that time, the City Council will receive an update on sidewalk maintenance along major collectors. This issue arose out of Budget Committee deliberations in May when we discussed right-of-way maintenance issues. Other items on the Council study session agenda following the Budget Committee meeting, which may be of interest to committee members, include an update on the City's insurance program and a discussion of affordable housing issues including a request for financial assistance from the City.

The agenda for the Budget Committee portion of the meeting is attached. One of the important items of business this evening will be a public hearing on a Supplemental Budget. By state law, any time a jurisdiction wishes to increase resources in a fund or increase appropriations by more than 15%, it must approve a supplemental budget. The process required by state law requires a hearing and approval by the Budget Committee before the budget is moved on to the City Council for adoption.

Because of the hearing on the supplemental budget, it is important that we have a quorum for this meeting. If you are unable to attend this meeting, please contact Heather Burris at 503-639-4171 ext. 431 or e-mail her at heather@ci.tigard.or.us.

I look forward to seeing you on the 18th.

Sincerely,

Craig Prosser
Finance Director

cc: Bill Monahan, City Manager
Gus Duenas, City Engineer
Ed Wegner, Public Works Director

Agenda
Tigard Budget Committee
Tuesday, September 18, 2001
7:00 p.m.*
Town Hall

1. Update on Financial Issues
 - Cook Park Project/OECDD Loan
 - Photo Radar
 - Telecommunications Franchise (Qwest vs. The City of Portland)
2. Supplemental Budget Hearing
3. Status of FY 2000-01 Year-End (preliminary results)

* Although the Budget Committee Meeting will begin at 7:00 p.m., members are encouraged to arrive at 6:30. At that time, the Council will receive an update on the status of sidewalk maintenance on major collectors. Since this was an issue during budget deliberations, citizen members of the Budget Committee may be interested in this discussion.

City of Tigard
Supplemental Budget
Parks SDC Fund and Underground Utility Fund
September 18, 2001

The City of Tigard's budget for FY 2001-02 was adopted in June 2001. Since that time, staff has identified changes that need to be made to two City funds of sufficient magnitude that the City must adopt a Supplemental Budget.

Under state law, jurisdictions may not increase the resources in any of their funds (except for recognizing gifts, grants or donations) without first adopting a Supplemental Budget. State Law establishes that any increases to resources in any one fund of more than 10% must first be approved by the Budget Committee following public notice and public hearing. The Budget Committee hearing is scheduled for September 18.

The City of Tigard Supplemental Budget will affect two City funds: Parks SDC and Underground Utility.

Parks SDC Fund

The Parks SDC Fund budget as originally adopted included \$821,764 of systems development charge funds for the construction of Phase I of the Cook Park Master Plan. This plan calls for the installation of additional parking, sports fields, trails, restrooms and other amenities in Cook Park. Because of limited funds available, however, this master plan was to be implemented over a three to four year period. The extended construction period would have prolonged disruption in the park, increased construction costs due to inflation, and delayed the time at which Tigard citizens would enjoy the benefits of these improvements. In addition, this project required the use of almost all of the Parks SDC money available, which limited the amount of work that could be done in other City parks.

In July 2001, the City was awarded a grant of \$250,000 by the Oregon State Parks Department for the Cook Park Project, which allowed an acceleration of the construction schedule. In addition, the City applied for a loan from the Oregon Economic and Community Development Department (OECDD) to cover the portion of project costs not covered by the grant.

On August 2, 2001, OECDD approved the City's application for a \$2.23 million loan. The term of the loan will be 10 years and the interest rate will be set in December following a state bond sale. OECDD expects the final interest rate will be less than 4.5%. Loan repayments will be made from Parks SDC money. Final loan documents will be submitted to the City for approval later this fall.

The Supplemental Budget recognizes the OECDD loan as a revenue to the Parks SDC Fund and appropriates that portion that is likely to be spent in FY 2001-02. This action

does not change the original appropriation of City funds to allow that money to be used for debt service or other parks projects as needed.

Underground Utility Fund

The Underground Utility Fund contains payments from developers used to place utilities (electrical and telephone) underground. These projects are carried out in conjunction with street improvement projects paid for by other funds. The FY 2001-02 Budget included \$40,000 for placing utilities underground. The Budget was based on the assumption that projects underway in FY 2000-01 would be completed before the end of the fiscal year.

Last Fiscal year (FY 2000-01) the fund included money to pay for undergrounding utilities as part of the Walnut St. and 121st Ave. Intersection Improvements. That project was substantially completed during FY 2000-01, but in August, the City received a bill for an additional \$41,000 of work performed by Washington County. The FY 2001-02 Budget assumed that all work on this project would be completed and paid for last fiscal year. It is necessary to adjust the budget in the Underground Utility Fund to allow for this payment in addition to the work planned for FY 2001-02. The Supplemental Budget recognizes the actual FY 2001-02 Beginning Fund balance (which is \$28,007 higher than estimated in the Budget), plus \$10,000 of other revenues from miscellaneous fees and payments. These additional resources, in combination with the Fund contingency will be sufficient to make this final payment of the Walnut & 121st Ave. Project.

Supplemental Budget

The actual changes to the Parks SDC Fund and the Underground Utility Fund required as part of this supplemental budget are shown in attachment A.

Attachment A
FY 2001-02
Supplemental Budget # 1

FY 2001-02 Revised Budget	Supplemental Budget # 1	Revised Revised Budget
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Parks SDC Fund

Resources

Beginning Fund Balance	395,331	267,037	662,368
Property Taxes	0		0
Grants	250,000		250,000
Interagency Revenues	0		0
Development Fees & Charges	502,322		502,322
Utility Fees and Charges	0		0
Miscellaneous Fees and Charges	0		0
Fines and Forfeitures	0		0
Franchise Fees and Business Tax	0		0
Interest Earnings	9,600	6,000	15,600
Bond Proceeds/Principal	0	2,230,000	2,230,000
Other Revenues	0		0
Transfers In from Other Funds	0		0
Total	\$1,157,253	\$2,503,037	\$3,660,290

Requirements

Community Service Program	0		0
Public Works Program	0		0
Development Services Program	0		0
Policy & Administration Program	0		0
General Government	0		0
Program Expenditures Total	\$0	\$0	\$0
Debt Service	\$0		\$0
Capital Improvements	\$1,071,764	\$1,682,000	\$2,753,764
Transfers to Other Funds	\$0		\$0
Contingency	\$80,000	\$250,000	\$330,000
Total Requirements	\$1,151,764	\$1,932,000	\$3,083,764
Ending Fund Balance	5,489	571,037	576,526
Grand Total	\$1,157,253	\$2,503,037	\$3,660,290

Underground Utility Fund

Resources

Beginning Fund Balance	296,962	28,007	324,969
Property Taxes	0		0
Grants	0		0
Interagency Revenues	0		0
Development Fees & Charges	58,000		58,000
Utility Fees and Charges	0		0
Miscellaneous Fees and Charges	0		0
Fines and Forfeitures	0		0
Franchise Fees and Business Tax	0		0
Interest Earnings	16,300	1,540	17,840
Bond Proceeds/Principal	0		0
Other Revenues	0	10,000	10,000
Transfers In from Other Funds	0		0
Total	\$371,262	\$39,547	\$410,809

Requirements

Community Service Program	0		0
Public Works Program	0		0
Development Services Program	0		0
Policy & Administration Program	0		0
General Government	0		0
Program Expenditures Total	\$0	\$0	\$0
Debt Service	\$0		\$0
Capital Improvements	\$40,000	\$45,547	\$85,547
Transfers to Other Funds	\$0		\$0
Contingency	\$6,000	(\$6,000)	\$0
Total Requirements	\$46,000	\$39,547	\$85,547
Ending Fund Balance	325,262		325,262
Grand Total	\$371,262	\$39,547	\$410,809

AGENDA ITEM # 4
FOR AGENDA OF 9/18/01

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Insurance Program Update

PREPARED BY: Loreen Mills  DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Obtain updated information regarding City's insurance program for property, casualty & workers' compensation.

STAFF RECOMMENDATION

Receive information update.

INFORMATION SUMMARY

JBL&K, Inc. is the City's Agent of Record for property, casualty & workers' compensation insurance purposes. This meeting is designed to give Council a general update on the insurance program overall and highlight a self-insurance review currently being conducted by City staff and our Agent of Record.

Timing for a review of self-insurance options or a higher self-insured deductible is right since the insurance market is "hardening" (insurance coverage is not as accessible and premiums are much higher).

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

N/A

FISCAL NOTES

Cost of the actuarial study needed for the self-insurance review is covered through insurance commissions earned by our Insurance Agent of Record.

AGENDA ITEM # 5
FOR AGENDA OF 9/18/01

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Affordable Housing Strategies II

PREPARED BY: Duane Roberts DEPT HEAD OK _____ CITY MGR OK _____

ISSUE BEFORE THE COUNCIL

Should the City grant Community Partners for Affordable Housing's (CPAH) request for a \$10,000 fee reduction? What special incentives, in addition to those already provided, should be the City adopt to further its affordable housing goals?

STAFF RECOMMENDATION

1. Consider providing \$8,000 in fee relief to CPAH.
2. As part of the overall affordable housing strategy, earmark an annual portion of the Social Services and Community Events Fund to partially off-set fees and changes imposed on affordable housing development.
3. Set a numeric target for additional affordable units.
4. Support making County tax-foreclosed properties available for affordable housing development.

INFORMATION SUMMARY

In May 2001, CPAH submitted a written request asking the City to consider reducing by \$10,000 the fees that normally would be imposed on its recently approved 26-unit Village at Washington Square affordable housing project. CPAH also asked the City to consider a policy of fee reductions to help promote affordable housing. On July 17, 2001, Council considered the reduction and policy incentive requests and set September 18th as the date for further discussion.

Jill Sherman, CPAH Acting Director, will be present at the meeting and will provide a five-minute PowerPoint presentation on the basics of affordable housing financing.

OTHER ALTERNATIVES CONSIDERED

1. Do not provide \$8,000 or a lesser amount in fee relief for the Village at Washington Square low-income housing project.
2. Grant CPAH's full \$10,000 request.
3. Do not set aside Social Services and Community Event funds to help foster affordable housing.
4. Set aside a different amount or use a different funding category to provide the financial incentive.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth and Growth Management Goal #3 calls for the City to encourage and support "private sector programs to maintain diverse and affordable housing".

ATTACHMENT LIST

1. September 5, 2001 memo from Jim Hendryx – “Affordable Housing Incentives”
2. Letter dated July 18th, 2001, from Jill Sherman - "System Development Charge/Building Fee Waivers, Reductions or Deferrals"
3. Undated CPAH memo - "Action Agenda for Affordable Housing"
4. 2001-02 City Social Services and Community Events budget page
5. July 17, 2001 “Affordable Housing Services” Council packet
6. September 10, 2001 memo from Bill Monahan – “City of Tigard Community Contributions”

FISCAL NOTES

No funds are budgeted for affordable housing fee relief. The cost of fully meeting CPAH's request for a fee reduction is \$10,000. Staff recommends that \$8,000 in relief be provided, with the funds coming from the general fund contingency. The proposed on-going incentive fund to promote affordable housing production would come from a set-aside amount within the Social Services and Community Events budget category.



MEMORANDUM

CITY OF TIGARD

TO: City Council

FROM: Jim Hendryx

DATE: September 5, 2001

SUBJECT: Affordable Housing Incentives

Background

In May 2001, Community Partners for Affordable Housing (CPAH) submitted a written request asking the City to consider reducing by \$10,000 the fees that normally would be imposed on its proposed 26-unit Village at Washington Square low-income housing project. In making this request, CPAH also asked the City to consider adopting a policy of fee reductions as a tool for fostering affordable housing generally. On July 17, 2001, Council considered the project-specific fee reduction and long-term policy requests and set September 18th as the date for further discussion. A copy of the July 17th packet and minutes are attached (Attachment #5). Also attached (Attachment #2) is a memo from CPAH following up on the July 17th Council meeting and providing examples of Oregon cities that provide SDC waivers, reductions, or exemptions.

Council also grappled with the issue of affordable housing last year. At its April 25, 2000 meeting, Council considered the "Regional Affordable Housing Strategy", adopted by Metro Council. This report provides a list of tools and approaches that could be used by local jurisdictions to facilitate the development of affordable housing and meet local production targets. Sheila Greenlaw-Fink, Director of the Tigard-based Community Partners for Affordable Housing, participated in the Council discussion. Based on local conditions and circumstances, she identified a top ten list of strategies for priority consideration. At the conclusion of its discussions, Council directed staff to return with further information on Ms. Greenlaw-Fink's top ten list. At its August 19, 2000 meeting, Council discussed the list and asked staff to schedule a follow-up meeting on the affordable housing issue sometime after the November general election, when the outcome of various funding-related ballot measures would be known. In relation to this meeting, Ms. Greenlaw-Fink submitted a memo outlining CPAH's top three list of policy incentives to increase opportunities for affordable housing (Attachment #3). With the subsequent passage of Measure 7, the proposed follow-up meeting was postponed indefinitely and Council did not review the new CPAH information.

Overview of City Actions to Support Affordable Housing

In recent years, the City has taken a number of actions to implement City affordable housing goals. Many of these are discussed in the staff memo included in the July 17th packet and are briefly mentioned here.

Financial Incentives:

- Since 1996, Tigard has provided a property tax exemption for low-income housing owned and operated by Community Partners for Affordable Housing. In 2000, the value of the waiver was approximately \$9,000. Other non-profit housing providers also are eligible. The waiver is automatically renewed each year provided the organization continues to meet the criteria.
- The City financially supports the Good Neighbor (homeless) Center located on Greenburg Road, contributing \$15,000 annually to the agency's operating budget.
- The City provides free office space to CPAH in a City-owned building located on Burnham Street. The value of the space, which CPAH shares with Neighborshare, is estimated at \$8,000 annually.

Grants:

- During the mid- to late-nineties, the City applied for and received three Community Development Block Grants (altogether \$460,000) to improve the roads and sidewalks around the CPAH-owned and -operated Villa La Paz low-income housing project.

Regulatory Changes:

- In 1998, the Community Development Code was revised to allow accessory dwelling units, or so-called granny flats, and to allow for adjustments to parking requirements for special resident populations, including low income households, who as a group tend to own fewer cars than do City residents generally.
- In the late nineties, the City created a housing maintenance code to protect the quality of the City's existing housing stock and hired a housing inspector to be responsible for its enforcement.
- The Washington Square Plan, scheduled to be considered for implementation by early next year, is supportive of allowing opportunities for a variety of housing types. The justification is that additional housing options are needed to provide nearby housing for shopping mall and nearby business center employees.

CPAH's Top Three List

In its late-2000 memo to Council on affordable housing planning, CPAH narrowed its list of recommended housing promotion strategies to three: 1) the adoption of a numeric target of 100 new affordable housing units by 2003; 2) fee waivers, reductions, or deferrals; 3) donation of tax-foreclosed properties to nonprofits for the development of affordable housing. Staff comments on these strategies are included in the recommendation section of this memo, which follows.

Staff Recommendations

As discussed in earlier Council meetings, low-income housing needs continue to far exceed supply. Therefore, in addition to the City's current pro-housing strategies and approaches, staff recommends the Council consider:

- 1a. Annually identifying a set amount, initially \$5-10,000 per year, that would be available to reduce fees and charges imposed on affordable housing development. The funds would come from the .5 % of the City budget annually dedicated for Social Services and Community Events (Attachment #4). Any unused housing incentive dollars would be carried over to the following year.

The adoption of a housing set-aside will impact funding available for other non-profit social service requests.

- 1b. Requests for funds within the set-aside amount should not be required to follow the budget cycle. Accepting such request any time during the year would allow greater flexibility and allow housing providers to take advantage of special loan or grant allocations or land availability, which may not follow the budget cycle. Direct staff to develop procedures for reviewing such requests.
2. Set a numeric target for affordable housing creation at the 100-unit, or some other level, by 2004. This would provide a (non-mandatory) benchmark to measure progress toward meeting low-income housing needs.
3. Direct staff to work with Washington County, which has statutory authority over all tax foreclosed properties, and the other cities to make such properties available for affordable housing development.
4. Lastly, with regard to the CPAH project-specific request for a \$10,000 fee waiver, consider contributing \$8,000. The \$8,000 would offset the amount of the park SDC fee increase, which was adopted after the financing plan for the Washington Square project was completed. Direct staff to return to Council with a budget amendment to transfer funds from the general fund contingency.

By way of explanation, effective May 10, 2001, the park SDC fee schedule was revised upward to reflect the current costs of land and development. Under the new schedule, the multi-family rate increased from \$540 to \$850 per dwelling unit. As applied to the 26-unit Village at Washington Square project, the park SDC fee increase amounted to \$8,060 (\$310 unit x 26) in additional charges.



Attachment 2
RECD JUL 20 2001

P.O. Box 23206 • Tigard, OR 97281-3206
Tel: 503-968-2724 • Fax: 503-598-8923 • www.cpahinc.org

July 18, 2001

Mr. William Monahan, City Manager *and*
Mr. James Hendryx, Community Development Director
City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

RE: System Development Charge (SDC)/Building Fee Waivers, Reductions or
Deferrals.

Dear Jim and Bill:

This letter is to follow up on our discussions about System Development Charge (SDC) and Building Fee waivers, reductions or deferrals. At our last meeting, city staff expressed interest in receiving information about SDC/Fee-related policies that are currently in place in other cities in Oregon. Below are descriptions of policies that Salem, Eugene and Ashland have adopted in order to help facilitate the development of affordable housing in their jurisdictions. These examples are taken from METRO's Regional Affordable Housing Strategy.

Please note that I have listed only policies that refer *directly* to SDC and/or fee waivers. Both the jurisdictions listed below as well as other jurisdictions have adopted other types of policies that make the development of affordable housing more feasible. To take just a couple of examples: Corvallis makes low interest loans to affordable housing projects with no payments of interest or principal for the first five years; and Gresham offers federal pass through dollars (HOME) as grants to projects (whereas Washington County loans their HOME dollars).

SDC Waivers, Reductions or Exemptions

Salem

The SDC imposed under City Code Chapter 41 exempts 1) housing provided by the Salem Housing Authority, and 2) any housing unit that receives city administered federal housing funds and is affordable to families below 80% median household income (MHI).

Eugene

SDCs are exempted for rental housing for households below 60% MHI (cap of \$115,000 per year).

Ashland

SDCs are deferred and secured by a second mortgage that is treated as a loan and accrues 6% interest annually. The SDC and the interest must be paid only if and when the property is sold for a use than affordable housing.

Fee Waivers, Reductions or Exemptions

Eugene

Waives planning and permit fees for affordable housing projects, up to a total of \$50,000 per year.

The establishment of an SDC/fee reduction policy in Tigard would benefit both current and future affordable housing projects. I hope this information proves useful as the City considers its affordable housing policies. Do not hesitate to call me at 503-968-2724 with any questions. We appreciate your time and effort in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jill Sherman', with a long horizontal line extending to the right.

Jill Sherman

Acting Executive Director

Community Partners for Affordable Housing, Inc.



Action Agenda for Affordable Housing

CPAH appreciates the opportunity to partner with the City of Tigard on their goal to promote affordable housing. As the City considers the adoption of additional incentives that promote affordable housing, CPAH appreciates the opportunity to present this Action Agenda which describes CPAH's "top three" policy incentives for immediate consideration by the City.

Set a Numeric Target

The City of Tigard has included the promotion of affordable housing as one of its key goals for the last several years. CPAH asks that the City refine their goal by setting a numeric target. The Regional Affordable Housing Strategy recommended that jurisdictions set targets based on a mere 10% of the projected need—for Tigard this would equal 320 affordable units by 2003. CPAH recognizes that an additional 320 units (while modest compared to actual need) may not be a realistic goal at this time. Therefore, CPAH asks that the City set a goal of 100 additional affordable units by 2003.

Fee Waivers, Reductions and Deferrals

These fees have an enormous impact on the feasibility of any particular project, particularly because they are required at such an early stage in the project. CPAH recommends that the City consider: **waiving zoning fees, reducing and deferring permit fees and deferring System Development Charges (SDCs).** CPAH recommend the City set aside a dollar amount to be used for fee waivers and deferrals each year. Waivers and/or reductions would be offered to nonprofits that construct or renovate housing serving households at or below 50% of area median income.

Land Cost and Availability

Tigard's supply of land available to develop for housing is limited. In addition, as noted before, there is little to no buildable land zoned R-40. CPAH recommends that the City consider **donation of tax-foreclosed properties to nonprofits for the development of affordable housing and land banking and land assembly.**

*City of Tigard,
Oregon*

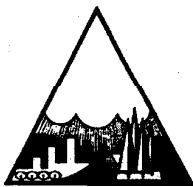
**Social
Services
and
Community
Events**

**Budget Unit:
1500**

Each year, the City appropriates funds to support Social Service and Community Event activities that assist or benefit Tigard Citizens. Community organizations are invited to submit requests in February of each year. A subcommittee of the Budget Committee meets to review Social Service requests and to recommend funding in the Proposed Budget. Community Event requests are proposed as submitted, for review by the Budget Committee and the Council

	Actual 1998/99	Actual 1999/00	Adopted 2000/01	Proposed 2001/02	Approved 2001/02	Adopted 2001/02
American Red Cross (Transportation)	\$1,067	\$1,000	\$1,100	\$1,100	\$1,100	\$1,100
Christmas in April	0	3,000	2,500	3,000	3,000	3,000
Good Neighbor Center	8,688	15,000	20,000	10,000	10,000	10,000
Loaves & Fishes - Senior Center	17,000	18,000	18,000	20,000	20,000	20,000
Luke Dorf Inc.	6,889	7,000	7,500	7,500	7,500	7,500
Neighborshare (CAO)	9,444	11,000	11,000	15,000	15,000	15,000
Rape Crisis Center	0	1,000	2,000	3,000	3,000	3,000
Shelter - Domestic Violence Center	2,878	3,000	3,000	4,000	4,000	4,000
Tualatin Valley Centers	24,139	25,000	18,000	18,000	18,000	18,000
Total Social Services	\$70,105	\$84,000	\$83,100	\$81,600	\$81,600	\$81,600
Broadway Rose Theatre	\$8,244	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Festival of Balloons	5,778	10,000	10,000	10,000	10,000	10,000
Fourth of July	4,500	7,500	7,500	7,500	7,500	7,500
Tigard Blast	0	0	0	10,000	5,000	5,000
Tigard Country Daze	3,444	1,000	0	0	0	0
Tigard High Graduation Ceremony	500	500	500	500	500	500
Tigard 40th Birthday	0	0	0	2,000	2,000	2,000
Train Days	2,500	0	4,000	0	0	0
Tualatin River Keepers	0	1,000	1,710	2,000	2,000	2,000
Tualatin Valley Community Band	1,122	1,200	1,250	1,750	1,850	1,850
Total Arts/Events	\$26,088	\$31,200	\$34,960	\$43,750	\$38,850	\$38,850
Total Requests Granted	\$96,193	\$115,200	\$118,060	\$125,350	\$120,450	\$120,450

The Budget Committee policy is to set total events and social service appropriations at .5% of the prior years operating budget. The policy limit for FY 2001-02 is \$124,045. The Adopted Budget includes a total of \$120,450.



AGENDA ITEM # 5
FOR AGENDA OF July 17, 2001

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Community Partners for Affordable Housing Fee Reduction Request

PREPARED BY: Duane Roberts DEPT HEAD OK [Signature] CITY MGR OK UA

ISSUE BEFORE THE COUNCIL

Should the City grant Community Partners for Affordable Housing's (CPAH) request for a \$10,000 fee reduction?

STAFF RECOMMENDATION

Council consider the written and oral testimony and decide as it sees fit regarding the request.

INFORMATION SUMMARY

The City presently provides tax abatement for affordable housing, but has no policy regarding fee reduction. CPAH has requested the City provide \$10,000 in fee relief for its new 26-unit Village at Washington Square affordable housing project. The fee relief would allow the organization to reduce the rent on one three-bedroom unit to a level affordable to a family earning 30% of median income. CPAH has also asked the City to consider the adoption of a long term policy supporting fee reductions.

OTHER ALTERNATIVES CONSIDERED

Grant the request for \$10,000 in fee relief.
Provide a lesser amount of relief.
Do not grant the request.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth Management Goal #3 states that "The City encourages and supports private sector programs to maintain diverse and affordable housing". Strategies identified to achieve this goal include making incentive programs available to providers of affordable housing units. These incentives include the waiver and property tax abatement for affordable housing projects or reduction of SDCs.

ATTACHMENT LIST

Attachment 1 – Memo from Jim Hendryx concerning CPAH fee reduction request
Attachment 2 - CPAH letter dated May 17, 2001
Attachment 3 - CPAH letter dated June 15, 2001

Attachment 4 - Village at Washington Square project summary
Attachment 5 - City Attorney memo dated April 9, 2001
Attachment 6 - Council meeting minutes of September 19, 2000.

FISCAL NOTES

The amount requested by CPAH is \$10,000. No funds have been budgeted to meet this cost. In order to meet this request, General Fund revenues would need to be shifted from some as yet unidentified line item.

i/citywide/affordable.feereduction



MEMORANDUM

CITY OF TIGARD

TO: Council

FROM: Jim Hendryx

DATE: July 3, 2001

SUBJECT: CPAH Request for Fee Reductions for the Village at Washington Square

Community Partners for Affordable Housing (CPAH), the Tigard-based non-profit affordable housing provider, has asked the City to consider reducing by \$10,000 the fees that normally would be imposed on its recently approved 26-unit Village at Washington Square affordable housing project. A copy of the letter requesting the reduction is attached. According to CPAH Executive Director Sheila Greenlaw-Fink, the fee reductions would allow one three-bedroom unit to rent at a level affordable to a family with an income at 30% of median income vs. having to raise the rent to a level affordable to family with an income at the 50% of median level. The request specifically asks for reduction in Traffic Impact Fee, Park SDC, or building permit fees in that priority order. The letter also asks the City to consider adopting a policy of fee reductions for affordable housing.

Metro Housing Policy

Current regional policy related to affordable housing is defined in the Regional Affordable Housing Strategy Plan or RAHS. Adopted by Metro Council late last year, RAHS is intended to provide the policy direction for local affordable housing objectives and strategies and the specific actions needed by local governments and others to reach affordable housing production goals. This list includes fee reductions and waivers.

The strategy's primary objective is to increase the supply of housing for the highest need households: those earning 50% of median income. Within Washington County, the RAHS identifies the highest need households as including the elderly, people with disabilities, farmworker families, large families, recent immigrants, victims of domestic violence, single mothers, and ethnic and racial minorities.

In addition to objectives and strategies, the RHAHS establishes affordable housing production goals based on current and future affordable housing needs. The five-year production goal, sub-totaled by jurisdiction, is 10% of the overall projected benchmark need for affordable housing. Tigard's five-year goal is 320 units. The goal is non-binding, but its adoption imposes an obligation on the City and other jurisdictions to promote affordable housing and to strive to meet the quantitative goal.

City Housing Policy

City Comprehensive Plan Policy 6.1.1 addresses housing and states that the City shall provide an opportunity for a diversity of housing densities and residential types at various prices and rent levels. In support of this policy, Tigard, since 1996, has provided a property tax exemption for low-income housing owned and operated by CPAH. This allows CPAH to reduce rents.

In 1998, the City established a "community vision" goal of encouraging and supporting private sector programs to rehabilitate existing, and develop new affordable housing (Growth Management Goal #3). Strategies identified to achieve this goal include making incentive programs available to providers of affordable housing units. These incentives include fee waivers and reductions and property tax abatement.

At its July 25, 2000, meeting, Council considered the Regional Affordable Housing Strategy and its list of potentially available tools that could be used by local jurisdictions to increase opportunities for affordable housing and meet local production targets. Sheila Greenlaw-Fink, Community Partners for Affordable Housing Director, participated in the Council discussion. Based on local conditions and circumstances, she identified a top ten list of strategies for priority consideration. These included the following:

- Density bonuses
- Transfer of development rights
- System development charges
- Permit fees
- Property tax exemptions
- Land cost and availability
- Local regulatory constraints and approval process
- Parking requirements
- Enterprise foundation regional acquisition fund
- Real estate transfer tax

At the conclusion of its discussion, Council directed staff to return with further information on Ms. Greenlaw-Fink's top ten list. At its August 19, 2000 meeting, Council discussed the list and asked staff to schedule a follow-up meeting on this agenda item sometime after the election, when the outcome of various funding-related ballot measures would be known. After the election, this follow-up meeting was postponed indefinitely, until the ramifications of Measure 7 could be better understood.

Current Tigard Contributions to Affordable Housing

Currently, except for federal Community Development Block Grants funds passed down by Washington County, the City is the only county jurisdiction providing any financial assistance to affordable housing projects. The City contributions include tax abatement for the Villa La Paz Apartments, \$8,574, and a single family dwelling on Tangela St, \$446. Tax abatement for the proposed Village at Washington Square, if provided, is projected at \$6,140. In addition, the City provides office space at 9020 SW Burnham St. rent free, valued at \$8,420 per year. This totals to \$23,580 per year in tax abatement and rent relief for Community Partners for Affordable Housing. Statewide, very few jurisdictions provide financial incentives to promote affordable housing.

Legal Issues

The City attorney's office, in an April 2000 memo, commented on a request for special treatment for affordable housing when the new park SDC fee schedule was before Council by recommending against the granting of fee waivers or reductions for the park, and by extension, other SDCs. The reason was that this would open the City to legal challenge from those who were not granted the waiver. A copy of the memo in question is attached. It concludes "adopting a waiver would result in substantial risk of expensive litigation, with no assurance (the City) would prevail".

While the memo recommends against waivers or reductions, it also refers to an alternative and more legally defensible approach to helping affordable housing, should the City wish to provide such help. This approach involves using general fund revenues to pay the SDC fees. According to the memo, this method is consistent with current City codes and is less subject to legal challenge. As recently confirmed by City Attorney Gary Firestone, a donation or transfer of funds by the City is within the scope of its authority and is less fraught with legal concerns than an outright fee waiver would be.

City Non-Profit Funding Procedure

The City annually reviews one-time "social funding requests" from non-profit agencies. This review is included as part of the regular City budget process. The deadline for submitting requests is February of each year. The Budget Committee policy is to set total events and social service appropriations at 0.5% of the prior year's operating budget. The proposed 2001-02 budget, which went to Council on June 12th, included a recommended budget that was \$4,000 under the policy limit. No formal or written guidelines or criteria have been put in place for reviewing these "social funding requests" requests.

CPAH did not follow this "social funding request" process because they understood that the City did not want them to compete with other non-profits. Another reason is that CPAH wished the City to consider adopting a policy of fee reductions for affordable housing.

Summary and Conclusion

CPAH has requested a \$10,000 fee reduction on its 26-unit affordable housing project now underway near Washington Square. CPAH also has asked the City to consider a policy of fee reductions for affordable housing. According to the City attorney, the City could, via the general fund, provide some fee relief for affordable housing without undue legal risk. Last year, Metro adopted a Regional Affordable Housing Strategy that sets a non-binding five-year housing production goal for Tigard of 320 units. City comprehensive plan policies and community vision goals support and encourage affordable housing. Council has considered but taken no action regarding the list of proposed local affordable housing promotion strategies included in the regional report. Since 1996, the City has provided tax abatement for affordable housing.

In the absence of Council consideration of specific strategies and measures for implementing Metro and City policy, staff has no clear basis for making a recommendation regarding the CPAH request. Under the circumstances, the request should be considered on an ad hoc basis until a formal affordable housing strategy is put into place. In the short term, staff recommends Council consider the written and oral testimony and decide as it sees fit regarding the present fee reduction request. If Council decides fee relief for this particular project is appropriate at the requested or some other level, the City should use General Fund dollars to provide the relief, as recommended

by the City Attorney. The budget implication of this decision is that lost dollars would have to be taken from other City operations. Staff has not considered and has no recommendation at this time regarding where this shift in budget allocations should occur. The longer-term issue of refining the City's affordable housing policies should be considered at some later date.

I/rpn/dr/affordablehousing.chparequest

Attachment 2



P.O. Box 23206 • Tigard, OR 97281-3206
Tel: 503-968-2724 • Fax: 503-598-8923 • www.cpahinc.org

May 17, 2001

Mr. William Monahan, City Manager *and*
Mr. James Hendryx, Community Development Director
City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

Dear Bill and Jim:

This letter is to follow-up to our letter dated May 9, 2001. Community Partners for Affordable Housing would like to request that the City of Tigard approve one of the following fee reductions for the Village at Washington Square.

With the recent \$8,000 increase of Parks System Development Charges as well as higher than anticipated zoning costs, fees for this project have increased by almost \$20,000, and total more than \$143,000. We are requesting that the City consider a waiver a \$10,000 or 7% of those fees. A \$10,000 reduction will mitigate fee increases and allow us to maintain one 3-bedroom unit at a rent level affordable to a very low-income family (at 30% of area median income vs. having to raise the rent to a 50% level).

While we have ranked them in order of our preference, we understand the City's budget may dictate which is most feasible.

- **Preference 1:** We ask that the City consider a reduction of \$10,000 in the Traffic Impact Fee on this project, *or*
- **Preference 2:** Alternately, we ask that the City consider a reduction of \$10,000 in the Park System Development Charge, *or*
- **Preference 3:** Alternately, we ask that the City consider a \$10,000 reduction in building permit fees.

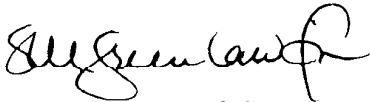
We would like the City to consider implementing fee reductions on all affordable new construction housing projects—of which we recognize there will be a limited number. The importance of these fee reductions to the overall cost of such projects has been well documented. In the proposed Village at Washington Square, fees and SDCs add \$5,500 to the cost of each unit. Jurisdictions such as Portland who waive over half of these fees are able to ensure that more and better quality affordable housing is available, making it possible for retail and service sector employees to live near work, support their families and contribute to the community.

CPAH's projects generate less vehicular trips, both because car ownership and number of trips is lower than average, and because we target sites with access to jobs, transit and services. Additionally, we incorporate recreational opportunities on-site. At our current project we have incorporated a community center, play area and butterfly garden.

Again, as you consider these options as additional ways in which the City can impact affordable housing production, we believe there are reasonable ways to limit the potential impact on City budgets. Fee reductions could be capped at \$10-25,000 per project and reductions could be available only to projects serving households at less than 40-50% of area median income. Given the limited number of units being built, this would have a very limited impact on the City or SDC revenue generation.

We appreciate all that the City has accomplished to date and the willingness to consider additional tools. We look forward to hearing from you, and would be happy to provide additional information at your request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sheila Greenlaw-Fink', with a stylized flourish at the end.

Sheila Greenlaw-Fink
Executive Director

Attachment 3



P.O. Box 23206 • Tigard, OR 97281-3206
Tel: 503-968-2724 • Fax: 503-598-8923 • www.cpahinc.org

June 15, 2001

Mr. William Monahan, City Manager *and*
Mr. James Hendryx, Community Development Director
City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97223

Dear Bill and Jim:

We have put together some sample materials to help illustrate the issues discussed in our June 1 meeting. We hope this will help clarify the impact of our request to the City for limited fee waivers on affordable housing projects. We want to reiterate that an overall policy on fee waivers is our preference, rather than a case-by-case request. Much like tax abatement, this type of incentive helps address the City's goal on affordable housing. We hope the City of Tigard will continue to play a leadership role in Washington County on this issue, and look forward to working with you to address these issues with other jurisdictions, including the County.

The samples provided are just that—each project is complex and unique, with multiple sources of funding and different target populations. The amount of subsidy required to make a particular project work is tied to the population targeted (income level, family size, age, special needs), the level of rehabilitation needed to existing structures, and the nature of the construction challenge. The charts we've attached respond to some of the questions you raised in the meeting—questions commonly asked about affordable housing.

What is affordable housing? Household pays no more than 30 percent of its gross income on rent plus associated housing costs (.e.g., utilities).

Income Targeting: In affordable rental housing, rents are targeted to households at particular levels of area median income (AMI).

2001 HUD Area Median Income (AMI)					
No. of People	100% AMI	30% AMI	40% AMI	50% AMI	60% AMI
1	39,100	11,730	15,640	19,550	23,460
2	44,700	13,410	17,880	22,350	26,820
3	50,300	15,090	20,120	25,150	30,180
4	55,900	16,770	22,360	27,950	33,540
5	60,400	18,120	24,160	30,200	36,240
6	64,800	19,440	25,920	32,400	38,880

No. of Bedrooms	No. of People	Median Income	30% AMI	40% AMI	50% AMI	60% AMI
0	1	39,100	260	347	456	554
1	1.5	41,900	270	366	480	585
2	3	50,300	324	441	576	702
3	4.5	58,150	374	512	665	810
4	6	64,800	416	648	740	902

Assumptions: 1.5 people per bedroom; utility allowances \$33, \$44, \$53, \$62, & \$70 respectively.

The above charts show 2001 AMI for different household sizes and rents that would be affordable to households at these different levels of AMI. For homeownership programs it is typically families at 80-120% of area median income, while for rental housing it is increasingly those at 50% of area median income or below. For a family of 3, this would mean an income of between \$15,090 and \$25,150 annually. Rents considered affordable to this family would need to fall with \$324-576 monthly range. To create or preserve housing at these rent levels requires a variety of financial tools, illustrated in the next table.

What financial tools support affordable housing?

Goal of Tool	Method Used	Specific Examples
Improve first position (private debt) financing to allow more debt to be supported.	<ul style="list-style-type: none"> Lower interest rate Higher loan to value ratio Extended loan term Reduced debt cover ratio (DCR) 	<ul style="list-style-type: none"> Oregon Affordable Housing Tax Credit
Reduce operating expenses/subsidize operations to increase dollars available to support debt or reduce rents needed to cover operations	<ul style="list-style-type: none"> Reduce operating expenses Provide operating subsidies 	<ul style="list-style-type: none"> Property tax abatement Project-based section 8
Reduce cost to develop project	<ul style="list-style-type: none"> Reduce City fees & charges Reduce land costs Reduce design &/or construction costs 	<ul style="list-style-type: none"> Reduce or waive fees and SDCs
Subordinate or Gap financing	<ul style="list-style-type: none"> Fill gap between amount of private debt that can be supported and total development cost 	<ul style="list-style-type: none"> Grants (CDBG) Low interest, second position loans (HOME)

The above chart briefly summarizes some key goals in impacting affordability, and methods to achieve them. For instance, the Oregon Affordable Housing Tax Credit is utilized by private lenders on behalf of housing developers to effectively reduce the interest rate on private debt by 4%, thereby increasing the amount of debt an affordable complex can service. Property tax abatement decreases annual operating expenses, thereby allowing us to serve lower-income households (for whom we charge lower rents). Reduced or waived fees help "fill the gap" between the private debt that can be supported and the cost to develop the project. There are a limited number of ways to fill the gap in affordable housing projects, and local incentives are critical.

Income Targeting and Impact on Debt Service Capacity: The income levels of the households that the project will serve determines the amount of private debt that the project can support, which in turn determines the size of the gap that needs to be filled to make the project feasible. Clearly, additional tools are needed to fill the gap when the project targets households at lower incomes.

Unit Size	No. of Units	Mo Rent at 60% AMI	Annual Rent	Mo Rent at 30-50%	Annual Rent
Studio	1	554	6,648	260	3,120
1 BR/ 1 BA	2	585	14,040	270	6,480
1 BR/ 1 BA	5	585	35,100	480	28,800
2 BR/ 1 BA	5	702	42,120	513	30,780
3 BR/ 1 1/2 BA	1	810	9,720	374	4,488
3 BR/ 1 1/2 BA	1	810	9,720	520	6,240
3 BR/ 1 1/2 BA	5	810	48,600	665	39,900
4 BR/2 BA	0	902	-	416	-
4 BR/2 BA	3	902	32,472	578	20,808
4 BR/2 BA	3	902	32,472	740	26,640
Total			230,892		167,256
Laundry Income			2,600		2,600
Total Gross Income			233,492		169,856
Vacancy		5%	11,675		8,493
Adjusted Gross Income			221,817		161,363
Operating Exp			91,445		91,445
NOI			130,372		69,918

**Available for Debt Service at
debt cover ratio of 1.15:**

113,367

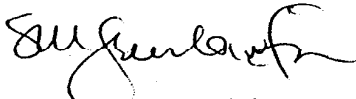
60,798

How would a \$10,000 fee waiver impact an affordable project, like the Village at Washington Square? With a gap of \$10,000 (for instance when Parks SDCs increased recently), you need to be able to support additional private debt, typically done by raising rents, or securing operating subsidies. To maintain lower rent levels, we simply cannot take on additional debt. Depending on the developer's mission, and funders requirements, targeting may not be flexible and changing the targeting at this later stage of the project may not be an available option.

We have attempted to convey complex information in a few pages. Jill Sherman, our housing development manager, would be happy to walk through this in a work session with staff or council. This summer I will be taking a 3-month sabbatical, working part-time on specific projects, and Jill will serve as our acting director. (I look forward to spending time with my 6-year old this summer, and will be taking a few family trips). I will return full-time on September 17. While I am still available for meetings on a limited basis, I am certain that Jill, and our finance consultant, Robin Boyce, can answer any questions you might have.

We look forward to working with you on this and other housing issues. Please let us know your preference for proceeding on this issue. We would be happy to discuss your ideas for other ways to present this information. Thank you in advance for your continuing assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Sheila Greenlaw-Fink', written in a cursive style.

Sheila Greenlaw-Fink
Executive Director

Community Partners for Affordable Housing, Inc.



VILLAGE AT WASHINGTON SQUARE

11157 – 11163 SW Hall Boulevard, Tigard

Community Partners for Affordable Housing (CPAH) is a nonprofit affordable housing developer serving the Tigard-Tualatin area. CPAH provides safe and healthy affordable housing along with support and skill building activities to low-income individuals and families in our community. The Village at Washington Square represents CPAH's fourth development as an organization, and will bring the total number affordable housing units owned by CPAH to 146. CPAH has assembled a highly qualified team of development professionals to work on this new construction project.

The need for affordable multifamily rental housing in Washington County in general, and Tigard specifically, is well documented. While Washington County is one of the fastest growing and most prosperous counties in Oregon, an increasing number of residents do not benefit from this affluence – over 20,000 families live below the poverty line. They are the bank tellers, shop clerks, secretaries and other service, retail and manufacturing workers that support the growth of the Washington County economy. Within Washington County, Tigard-Tualatin is one of the least affordable areas to live, despite a large concentration of employment opportunities. The unfortunate reality is that many who work here cannot afford to live here.

The Village at Washington Square will be a new construction development providing rental housing affordable to a range of lower income households, with rents affordable to families at 30%, 45% and 50% of the area median income.

The Design of the Village at Washington Square includes three residential buildings with a total of 26 dwelling units, and a community building all arranged around a central courtyard/play yard. Over half of the units will be three and four bedroom units, which will allow us to meet the affordable housing needs of large families. Eleven of the units will be traditional apartments, while the other

15 will be townhouse style units with entrances on the second floor. The development will include 31 parking spaces. The development site contains 36,720 square feet and a single-family home on the property that will be removed to allow the full site to be redeveloped. The development will include a small green space with benches, a path and a butterfly garden.



The Community Center will be the focal point of the support, skill building and community building activities offered to residents and will include a small computer center. Youth programs will include homework mentoring, access to computers and high speed Internet, after-school crafts and story hours and an eleven week Summer Youth Program. Adult programs will include Neighborhood Watch, GED tutoring, access to computers and high speed Internet, job search mentoring and an Individual Development Account Program.

The Village at Washington Square will provide affordable housing for a minimum of sixty (60) years, with maximum rents regulated by covenants on the property. Financing costs for the development will be covered through partnerships with private investors, lenders, non-profit foundations, Washington County and the State of Oregon:

Financial Partners

Partner	Contribution	Type
Washington County Department of Housing Services	\$ 487,700	HOME low interest loan & CDBG Grant – AWARDED to development
Oregon Housing and Community Services Dept.	\$100,000 *	Housing Development Grant, * plus Low Income Housing Tax Credits and Oregon Affordable Housing Tax Credits – AWARDED to development
Private Loan – lender to be determined	\$ 975,391 (estimated)	20 year loan utilizing Oregon Affordable Housing Tax Credits to reduce interest costs to development
Private Equity – investor to be determined	\$ 1,827,085 (estimated)	Equity investment in return for Low Income Housing Tax Credits allocated to the investor
Equity by CPAH	\$ 49,000	Deferred fees, equity includes grant from First Consumers National Bank
Total Development Cost	\$ 3.4 Million	

Development Team

Firm	Role
Housing Development Center	Development Consultant
Carlton Hart Architecture P.C.	Architect
Seabold Construction	General Contractor
Pinnacle Realty Management Company	Property Manager
Preston Gates & Ellis	Legal Counsel
Blume, Loveridge & Co.	Audit Services

Attachment 5

**RAMIS
CREW
CORRIGAN &
BACHRACH, LLP**

ATTORNEYS AT LAW

1727 N.W. Hoyt Street
Portland, Oregon 97209

(503) 223-4402
Fax: (503) 243-2944

MEMORANDUM

TO: Tigard City Council
William A. Monahan, City Manager

FROM: Timothy V. Ramis, Gary Firestone, City Attorney's Office

DATE: April 9, 2001

RE: Waiving or Reducing Parks System Development Charge

BACKGROUND

The City currently has a Parks SDC and is considering revisions to the Parks SDC rates. An affordable housing group has asked the City to consider reducing, waiving, or deferring¹ the Parks SDC for projects that qualify as affordable housing.

ISSUES

What concerns should the City have concerning adopting provisions that would allow waiver of Parks SDCs for affordable housing projects?

ANSWER

If the City adopts a waiver of Parks SDC charges for affordable housing, the risk of litigation by other developers is increased. Other developers could challenge a waiver on statutory, equal protection, or takings grounds.

¹To avoid unnecessarily long and confusing sentences, the rest of this memorandum will refer only to "waiver." "Waiver" will include total, partial, temporary, and/or permanent waiver.

Memorandum re: Parks SDC Waiver, Reduction, Deferral for Affordable Housing

April 6, 2001

Page 2

ANALYSIS

Developers have challenged SDCs at the local level on a wide variety of grounds. We are unaware of any litigation on the particular issue of waivers for affordable housing, although the issue has been at least discussed when other local governments have considered adopting some type of favorable treatment for affordable housing providers.

Litigation Considerations

If the City adopts a waiver for affordable housing and that waiver is challenged, the City would have to expend substantial sums in litigating the sum. A legal challenge is likely to cost the City far more in legal fees than would be saved by any affordable housing waivers. While the City may have arguments that waivers are justifiable and legal (*see below*), there is a likelihood that a court would rule against the City, which would create even greater financial consequences for the City. It might have to pay damages and might have to refund SDCs to developers.

Statutory Argument

One legal argument that could be made against waivers for affordable housing is that the state statutes require uniformity and require that developers pay an equitable share. ORS 223.304(1) requires that: "The methodology shall promote the objective of future system users contributing no more than an equitable share to the cost of existing facilities." The statutory framework does not specifically prohibit SDC waivers, deferrals or reductions. However, developers could argue that the intent of the statutory scheme is to impose uniformity by limiting the discretion of local governments with respect to how SDCs are structured. ORS 223.304(1) and the rest of the SDC statutes can be interpreted as requiring equitable treatment for developers. However, a proponent of waivers would argue that as long as those who do pay are required only to pay an equitable share, the system complies with the statutory requirement. The problem with this argument is that the actual cost of the infrastructure to be paid by SDCs does not go down by the amount of the waiver granted. If the lost revenue is recaptured by increasing the costs to SDC payers, then the "equitable share" principle of the statute is violated. A city could avoid this problem by using general fund revenues to make up for money lost to waivers; however, the net financial result to the City would be the same as giving general fund grants to affordable housing projects.

Issues Arising Under the Equal Protection Clause of the U.S. Constitution

Developers could argue that exempting certain classes of developers from SDCs violates the Equal Protection Clause of the U.S. Constitution, by impermissibly treating developers of non-affordable housing differently from developers of affordable housing. The test for validity under the Equal

Memorandum re: Parks SDC Waiver, Reduction, Deferral for Affordable Housing
April 6, 2001
Page 3

Protection Clause, when no fundamental rights or suspect classes are implicated, is whether a distinction that results in differential treatment rationally furthers legitimate governmental interests. Fostering affordable housing would likely be found to be a legitimate governmental interest. Advocates of affordable housing would likely argue that an SDC waiver rationally furthers that interest.

If developers pursue an equal protection argument, they may argue that a different standard should be involved because their basic property rights are involved. The current U.S. Supreme Court may be open to this argument. A reduction for affordable housing that is made up for from general tax revenues rather than from increased SDCs has a good chance of surviving even under a more stringent standard, but this again requires substantial expenditure from general fund revenues.

Issues Arising Under the Takings Clause of the U.S. Constitution

The strongest challenge would likely be that an SDC waiver for affordable housing results in a "taking" in violation of the U.S. Constitution. This concern arises because affordable housing waivers could result in a less perfect fit between the impact of new developments that pay the SDC and the amount of the SDC. If SDCs were increased to offset any affordable housing waiver, a strong argument could be made by developers that they are being forced to bear a burden that should be shared by all and that the requirement to pay even higher SDCs is a taking. While courts have never accepted that a requirement to pay is a taking, the argument is a strong one and would appear to be a logical extension from recent Supreme Court decisions. However, if the waiver does not result in an increase in SDCs but instead is made up for from general fund proceeds, the developers' argument loses most, if not all, of its legal basis.

Need to Amend Code

The Municipal Code neither prohibits nor expressly permits waivers for affordable housing. If the City decides to allow waivers, it should amend the code and include the waiver as part of the code.

CONCLUSION

While the City may be able to legally justify waivers for affordable housing, adopting a waiver would result in a substantial risk of expensive litigation, with no assurance it would prevail.

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cc to Dwayne Roberts 5/23/01

Attachment 6

were in favor of the staff recommendations. Council members indicated that they were in favor. The direction to support the staff recommendations was unanimous.

9. DISCUSSION OF AFFORDABLE HOUSING STRATEGIES

Staff Report and Discussion: Community Development Director Jim Hendryx gave a presentation on the "Top Ten Affordable Housing Strategies." Topics covered in Mr. Hendryx's presentation included:

- ◆ Density Bonus
- ◆ Transfer of Development Rights
- ◆ System Development Charges
- ◆ Permit Fees
- ◆ Property Tax Exemption
- ◆ Land Cost and Availability
- ◆ Local Regulatory Constraints and Discrepancies in Planning and Zoning Codes/Local Permitting or Approval Process
- ◆ Parking
- ◆ Enterprise Foundation Regional Acquisition Fund
- ◆ Real Estate Transfer Tax

A copy of Mr. Hendryx's PowerPoint presentation is available at the City Recorder's office.

Councilor Scheckla asked how quickly the Council needed to act on the recommendations to promote affordable housing. Mr. Hendryx responded that Finance Director Craig Prosser suggested that the Council wait until the November election results were available, since some of the issues on the ballot may impact the City. Councilor Scheckla suggested the Council revisit the issue after election results are known. Assistant to the City Manager Liz Newton proposed that Mr. Hendryx return to the Council with a list of prioritized recommendations in late November or early December. Councilor Scheckla stated that he would like to know the budgetary impact of the recommendations.

Mr. Hendryx introduced Sheila Greenlaw-Fink from Community Partners for Affordable Housing (CPAH). Ms. Greenlaw-Fink stated that she hoped the Council would not delay action on the affordable housing incentives until the November election. She stated that CPAH needed to move forward on projects now or opportunities may be lost. She identified some limited cost items such as: tax abatement, permit fee incentives, and advocating for affordable housing at the County

level. Ms. Greenlaw-Fink pointed out that the financial impact of many of the options was nominal.

Councilor Patton asked if CPAH had a specific project in mind that will be coming before the Council prior to the November election. Councilor Patton pointed out that the State and County will also be affected by the November elections. She stated that this was an inopportune time to try to influence these jurisdictions. She continued by saying that although supportive of affordable housing, the Council has to take into account the potential repercussions to the City. Councilor Scheckla and Mayor Griffith concurred with Councilor Patton.

Mr. Hendryx concluded by saying that the goal of the presentation was to get Council direction. Ms. Newton summarized by confirming that Mr. Hendryx would return to Council with a list of prioritized recommendations, along with the cost impact and a description of the process involved in implementing each recommendation.

10. COUNCIL LIAISON REPORTS: None

11. NON-AGENDA ITEMS: None

12. ADJOURNMENT: 9:54 p.m.

Attest:

Greer A. Gaston, Deputy City Recorder

Mayor, City of Tigard

Date: _____

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5. REVIEW REQUEST FROM COMMUNITY PARTNERS FOR AFFORDABLE HOUSING FOR FEE REDUCTION REQUEST

Community Development Director Jim Hendryx introduced this agenda item wherein the Community Partners for Affordable Housing (CPAH) is requesting a \$10,000 fee reduction for its new 26-unit Village at Washington Square affordable housing project.

Associate Planner Duane Roberts reviewed the staff report, which is on file with the City Recorder. As part of the staff report, a memorandum from City Attorney Ramis is on file, which addressed waiving or reducing Park System Development Charges. In response to the question as to what concerns should the City have regarding adopting provisions that would allow a waiver of Park System Development Charges for affordable housing projects, City Attorney advised that the risk of litigation by other developers is increased. Other developers could challenge a waiver on statutory equal protection or takings grounds.

City Manager Bill Monahan noted that this request represented an instance where the staff wanted to show to the City Council the full contributions (from CPAH and other agencies) being requested of the City. In a memorandum attached to the Council Agenda Item Summary the current Tigard contributions to affordable housing is outlined.

Council discussion followed with regard to the level of contribution to affordable housing by the City given the City's capacity and responsibility to deliver services. Mr. Monahan, in response to a question from Councilor Scheckla, noted that the City of Tigard probably does more than most cities in the State of Oregon with regard to contributing to affordable housing. The City of Portland probably does more than the City of Tigard in the way of making such contributions.

Jill Sherman, representing CPAH, addressed the City Council and reviewed CPAH's request for a yearly contribution as well as for the City to have a stated policy on how a fee reduction can be obtained. If a policy was stated, then CPAH would know how they could go about meeting the criteria.

There was discussion on the tax abatement approval that CPAH received from the City of Tigard. It was noted that CPAH makes annual application for this tax abatement to the City of Tigard. In order to be absolved of any property taxes, at least 51% of the taxing entities must approve the abatement. Therefore, CPAH

needs to receive tax abatement approval from the Tigard-Tualatin School District, Tualatin Valley Fire & Rescue District and the City of Tigard in order to qualify for the abatement.

Mr. Monahan suggested that if the City Council would want the City of Tigard to assist CPAH with regard to the SDC fees that the fees could be paid to the SDC fund by the City's general fund. Another suggestion was that if the City Council chooses to pay the SDC fees then the amount funded could be applied as a credit against future requests for funding from CPAH.

Councilor Patton commented that one of the City Council goals is to address affordable housing in the City of Tigard. She noted the need to schedule some time for a long-term policy discussion on what the City's effort will be with regard to affordable housing. At this time, she noted that the issue was to consider the fee waiver request. She advised that the City now addresses affordable housing through its social services program. Councilor Patton said that when the City Council discusses affordable housing, the City Council should also decide whether affordable housing should be part of the social services funding consideration. She referred to recent law enforcement incidents at the Villa La Paz housing development. She said there is a need for CPAH to communicate closely with the City of Tigard and to make efforts to see that the Village at Washington Square project did not develop similar law enforcement problems as has been experienced at Villa La Paz.

Councilor Dirksen noted that he would like to grant the amount requested by CPAH but understood Councilor Patton's concerns. He advised that he viewed this request as being different from social services in that it is a one-time request for a development.

Councilor Scheckla noted that he agreed with Councilor Patton.

Also discussed was the alternative of reducing the amount of assistance requested from the full \$10,000, to this year's social services non-allocated funds (\$4,000).

Mayor Griffith noted that it was difficult to determine "where to draw the line." He said he agreed that a policy needs to be established with regard to affordable housing and social services funding. He also noted that the request from CPAH for this money could be done as a budget adjustment if considered to be an emergency; however, he did not think that this request qualifies as an emergency. He said there is a need to strive for equity for all City of Tigard citizens when allocating resources.

It was determined that an affordable housing strategies discussion would be scheduled tentatively for the September 18, 2001, City Council workshop meeting.

MEMORANDUM
CITY OF TIGARD, OREGON



TO: Honorable Mayor and City Council Members
FROM: Bill Monahan *WM*
DATE: September 10, 2001
SUBJECT: City of Tigard Community Contributions

On June 27, 2001 I wrote a memo to Council on the status of City of Tigard community contributions. I attached a list of all City cash contributions and utility payments given to social services and community events. In addition, a list of in-kind contributions made in calendar year 2000 and 2001 was included. I am providing Council with another copy of the June 27, 2001 memo and adding information on the City's contributions to the community through funding School Resource Officers and the Youth Services Officer. These officers are provided to the Tigard-Tualatin School District for nine months of the calendar year.

In looking at the City's contributions to social services, community events, and support of school activities, it is not easy to fix on a total cost to the City, nor is it easy to determine if the City's contribution is appropriate. I am, however, providing the information to Council so that the Council has all available information before it, as it determines whether to expand the level of City contributions to community social services or events.

The following is an estimate of the City contributions to these activities:

Social Services and Community Events (cash contributions)	\$120,450
Social Services Utility Payments (estimated based on FY 00-01)	\$ 9,500
In-kind Contributions	\$ 7,000
School Resource Officer Salaries (nine months)	\$156,829
Youth Services Officer (nine months)	\$ 39,446
 Total City of Tigard Contributions for FY 01-02	 \$396,225 estimated

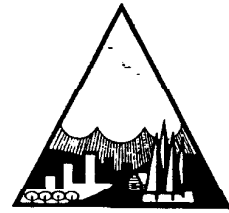
FY 2001-02
School Resource Officer
Personal Services Costs

SRO	FY 2001-02 Total	9 Month Total	
Mike Eskew	63,374	47,531	9-Month Amount funded by Grant plus School District
Rick Peterson	76,207	57,155	
Glen Scruggs	69,524	52,143	
Total	209,105	156,829	

FY 2001-02
School Resource Officer
Personal Services Costs

YSO	FY 2001-02 Total	9 Month Total
Sheryl Huiras	52,594	39,446
Grand Total	261,699	196,274

MEMORANDUM
CITY OF TIGARD, OREGON



TO: Honorable Mayor and City Council Members

FROM: Bill Monahan *Bill*

DATE: June 27, 2001

SUBJECT: City of Tigard Community Contributions

The city has been approached over the past few weeks with various requests for contributions to either social service agencies or community fund raising events. During the June 26 study session meeting of council, council reiterated a prior position that since the city has an established funding cycle for social services and community events, consideration of new proposals on a case-by-case basis should not be promoted.

Staff will make sure to voice the council direction as new requests are received over the coming months. In addition, we will provide information through the *Cityscape* and the city web page advising the community of the city's process for accepting applications for social service and community event funding. I'll ask Craig Prosser to prepare an information sheet to send to those groups seeking funding so they can make application during the next budget cycle.

For your information, I have attached a recently completed table of all city contributions to social service and community events. The table, prepared by the finance department, shows the actual contributions made by the city in fiscal years 1999/2000 and 2000/2001. In addition, the approved budget figures for the upcoming year are shown. Please note that in-kind contributions made over the past couple of years to community events and agencies are shown. We discovered that the Burnham Street house, leased to CPAH and Neighborshare, has had water billings charged to the city. In accordance with the lease with the two social service agencies, the obligation for paying the water bill properly rests with the agencies. As a result, contact has been made with the agencies and they have agreed to pay water fees for the upcoming year.

Over the next few weeks, staff will be developing actual figures for the in-kind city contribution to the recent balloon festival. That information will be provided to council as soon as it is available.

att

CITY OF TIGARD COMMUNITY CONTRIBUTIONS

CASH CONTRIBUTIONS

SOCIAL SERVICES & COMMUNITY EVENTS BUDGET

AGENCY	ACTUAL FY 99/00	ACTUAL FY 00/01	APPROVED BUDGET FY 01/02
American Red Cross (Transportation)	1,000	1,100	1,100
Christmas in April	3,000	2,500	3,000
Good Neighbor Center	15,000	15,000	10,000
Loaves & Fishes - Senior Center	18,000	18,000	20,000
Luke Dorf Inc	7,000	7,500	7,500
Neighborshare (CAO)	11,000	11,000	15,000
Rape Crisis Center	1,000	2,000	3,000
Shelter - Domestic Violence Center	3,000	3,000	4,000
Tualatin Valley Centers	25,000	18,000	18,000
Broadway Rose Theatre	10,000	10,000	10,000
Festival of Balloons	10,000	10,000	10,000
Fourth of July	7,500	7,500	7,500
Tigard Country Daze	1,000	0	5,000
Tigard High Graduation Ceremony	500	500	500
Tigard 40th Birthday	0	0	2,000
Train Days	0	4,000	0
Tualatin River Keepers	1,000	1,710	2,000
Tualatin Valley Community Band	1,200	1,250	1,850
TOTAL SOCIAL SERVICES & COMMUNITY EVENTS BUDGET	\$115,200	\$113,060	\$120,450

UTILITY PAYMENTS*

AGENCY	ACTUAL FY 99/00	ACTUAL FY 00/01	FY 01/02
Burnham St House	431	497	Unknown at this time
John Tigard House	0	7	Unknown at this time
Senior Center	9,072	9,011	Unknown at this time
TOTAL UTILITY PAYMENTS	\$9,503	\$9,515	Unknown at this time

*See Attachment 1 for detail

TOTAL CASH CONTRIBUTIONS	\$124,703	\$122,575	\$120,450
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IN-KIND CONTRIBUTIONS

AGENCY	2000**	2001***	2002
Balloon Festival	49,378	54,241	Unknown at this time
Holiday Tree Lighting	8,187	8,600	Unknown at this time
Tigard Daze	0	2,085	Unknown at this time
Tigard Blast	108	108	Unknown at this time
4th of July	1,279	1,339	Unknown at this time
Homecoming Parade	320	550	Unknown at this time
John Tigard House	36	36	Unknown at this time
Senior Center Steering Committee	1,293	1,293	Unknown at this time
Senior Center Lease/Insurance	287	718	Unknown at this time
Burnham St House	180	180	Unknown at this time
TOTAL IN-KIND CONTRIBUTIONS	\$61,066	\$69,148	Unknown at this time

**See Attachment 2 for detail

***See Attachment 3 for detail

	ACTUAL FY 99/00	ACTUAL FY 00/01	PROPOSED FY 01/02
TOTAL CONTRIBUTIONS	\$185,770	\$191,723	\$120,450

ATTACHMENT 1

UTILITY PAYMENTS - Detail

[illegible]

ATTACHMENT 2

IN-KIND COSTS FOR 2000 - Detail

	Balloon Festival	Holiday Lighting	Tigard Daze	Tigard Blast	4th of July	Homecoming Parade	John Tigard House	Steering Committee/Senior Center	Senior Center Lease/Insurance	Burnham St House
Risk Management	107.72	0.00	0.00	107.72	107.72	0.00	35.91	1,292.63	287.25	179.54
Police	11,440.00	0.00	0.00		431.00	0.00	0.00	0.00	0.00	0.00
Public Works	37,830.00	8,187.00	0.00	0.00	740.00	320.00	0.00	0.00	0.00	0.00
Total Contributions	49,377.72	8,187.00	0.00	107.72	1,278.72	320.00	35.91	1,292.63	287.25	179.54

ATTACHMENT 3

IN-KIND COSTS FOR 2001 - Detail

	Balloon Festival	Holiday Lighting	Tigard Daze	Tigard Blast	4th of July	Homecoming Parade	John Tigard House	Steering Committee/Senior Center	Senior Center Lease/Insurance	Burnham St House
Risk Management	107.72	0.00	0.00	107.72	107.72	0.00	35.91	1,292.63	718.13	179.54
Police	14,333.00	0.00	0.00	0.00	431.00	0.00	0.00	0.00	0.00	0.00
Public Works	39,800.00	8,600.00	2,085.00	0.00	800.00	550.00	0.00	0.00	0.00	0.00
Total Contributions	54,240.72	8,600.00	2,085.00	107.72	1,338.72	550.00	35.91	1,292.63	718.13	179.54